TAN SER JUAY v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) November 3, 1971]

[Singapore — Magistrate's Appeal No. 16 of 1971]

Penal Code ss. 411 & 414 — Receiving stolen property — Voluntarily assisting in disposal of stolen property — "Reason to believe" they were stolen — Whether necessary to prove facts from which a reasonable person would believe and not merely suspect.

The appellant was convicted of voluntarily assisting in the disposal of stolen property, to wit, four hundred wrist watches knowing or having reason to believe that they were stolen property.

The appellant was, by occupation, a broker, and on the evidence available, he was asked to arrange for the sale of these watches which were new, without the relevant certificate, and without the issue of a receipt from the seller who admitted the theft.

The learned magistrate, on the evidence of the surrounding circumstances, found that the appellant's suspicions must have been aroused that the watches were stolen property and was therefore put on inquiry and that he omitted to make further inquiries. The learned magistrate accordingly held that in those circumstances the appellant must have known or had reason to believe that the watches were stolen property and convicted him. The accused appealed.

One of the principal issues in this appeal was as to the meaning of the phrase "knows or has reason to believe" which governs section 414 of the Penal Code.

Held, allowing the appeal: on the evidence available, the suspicions of the appellant must have been aroused, but the law does not allow for a conviction based merely on suspicion.

[**Editorial Note:** The Honourable Chief Justice accepted the Indian authorities on the interpretation of the phrase "reason to believe" cases 1-15, below in sections 411 and 414 of the Penal Code, as requiring the prosecution to prove facts from which a reasonable person would necessarily believe, not merely suspect, that the goods were stolen. However, his Lordship indicated that he was not prepared to follow the Indian authorities on the interpretation of the phrase "disposing of" cases 16 and 17 below in section 414 of the Penal Code.]

Cases cited in argument:

(1) *Rango Timaji* I.L.R. 6 Bom. 402.
(2) *Kannappa Naicker* 14 Cr. L.J. Reps. 591.
(3) *Muhammad Ibrahim* 17 Cr. L.J. Reps. 25.
(4) *Sankara Narayana Chetti* A.I.R. 1916 Mad. 418.
(5) *Abdur Rahim* A.I.R. 1927 Nag. 40.
(6) *Edgecombe* A.I.R. 1928 Cal. 264.
(7) *Gaya Prasad* 32 Cr. L.J. 1184.
(8) *Gian Chang* 33 Cr. L.J. 764.
(9) *Bharat Chandra* A.I.R. 1950 Ass. 193.
(10) *Kurni* A.I.R. 1950 All. 497.
(11) *Jai Govind* A.I.R. 1951 Raj. 89.
(12) *Madan* I.D. 5 Ori. J.D. 370.
(13) *Choudhury* [1952] F.C.R. 1; P.L.D. 1952 F.C. 19.
(14) *R.* v. *Banka* [1961] 2 K.B. 621.
(15) *Harrison & Ors.* [1938] 3 All E.R. 134.
(16) *Nga Yan Ee* (1910) 11 Cr. L.J. 493.
(17) *Amar Nath* A.I.R. 1935 Lah. 587.

MAGISTRATE'S CRIMINAL APPEAL.

Dato' David Marshall for the appellant.

Loh Lin Kok (Deputy Public Prosecutor) for the respondent.

Wee Chong Jin C.J. (delivering oral judgment): The appellant was convicted of voluntarily assisting in the disposal of stolen property, namely, a few hundred wrist watches of various makes and kinds knowing or having reason to believe that they were stolen property. The magistrate, on the evidence of the surrounding circumstances which led to the appellant, who was by occupation a broker, finding a purchaser for the watches which were in fact stolen property, found that the appellant's suspicions must have been aroused that the watches were stolen property. The appellant, according to the magistrate, was therefore put on inquiry and the magistrate found that he deliberately omitted to make further inquiries because he wanted to remain in ignorance. The magistrate accordingly held that in those circumstances he must have known or had reason to believe that the watches were stolen property.

It may well be that in truth he knew or had reason to believe that the watches he arranged for P.W.4, the proprietor of Borden Co., to buy were stolen property and that he knew or had reason to believe that the seller was the thief but the evidence on the record and the surrounding circumstances as appears from the record do not entitle the magistrate, nor can it entitle me to find that he must have had reason to believe, when he arranged for the purchase of these watches, that they were stolen property. It may well be, if the proper evidence is led, that there will be sufficient facts and circumstances which would justify a court if it accepts that evidence and if it does not accept the appellant's evidence or if the appellant's evidence does not raise any doubt in the court's mind as to his guilt, in finding that on all those facts he had reason to believe that the watches in question were stolen property.

On the present evidence there quite clearly were suspicious circumstances. It must have raised suspicions in him to be asked to try and arrange to sell a few hundred watches particularly without the availability of the relevant certificates in respect of the more expensive ones and without being given a receipt from the seller for his purchase, but the law does not allow for a conviction based merely on suspicion and therefore this appeal is allowed and the conviction and sentence set aside.

Appeal allowed.

Solicitors: *David Marshall.*